
HOUSE BILL 2947

State of Washington 60th Legislature 2008 Regular Session

By Representatives Hunter, Hudgins, Schual-Berke, Anderson, McIntire, Jarrett, Hurst, Rodne, Eddy, Cody, Upthegrove, and Chase

Read first time 01/18/08. Referred to Committee on Local Government.

1 AN ACT Relating to port districts; amending RCW 53.12.260,
2 53.12.270, 53.08.120, 39.04.010, 53.36.030, and 84.55.092; reenacting
3 and amending RCW 39.04.155; adding a new section to chapter 53.12 RCW;
4 adding a new section to chapter 53.08 RCW; adding a new chapter to
5 Title 53 RCW; creating a new section; and prescribing penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 53.12.260 and 2007 c 469 s 3 are each amended to read
8 as follows:

9 (1) Each commissioner of a port district shall receive ninety
10 dollars per day or portion thereof spent (a) in actual attendance at
11 official meetings of the port district commission, or (b) in
12 performance of other official services or duties on behalf of the
13 district. The total per diem compensation of a port commissioner shall
14 not exceed eight thousand six hundred forty dollars in a year, or ten
15 thousand eight hundred dollars in any year for a port district with
16 gross operating income of twenty-five million or more in the preceding
17 calendar year. This subsection does not apply to port districts
18 subject to subsection (7) of this section.

1 (2) Except as required by subsection (7) of this section, port
2 commissioners shall receive additional compensation as follows: (a)
3 Each commissioner of a port district with gross operating revenues of
4 twenty-five million dollars or more in the preceding calendar year
5 shall receive a salary of five hundred dollars per month; and (b) each
6 commissioner of a port district with gross operating revenues of from
7 one million dollars to less than twenty-five million dollars in the
8 preceding calendar year shall receive a salary of two hundred dollars
9 per month.

10 (3) Except as required by subsection (7) of this section, in lieu
11 of the compensation specified in this section, a port commission may
12 set compensation to be paid to commissioners.

13 (4) For any commissioner who has not elected to become a member of
14 public employees retirement system before May 1, 1975, the compensation
15 provided pursuant to this section shall not be considered salary for
16 purposes of the provisions of any retirement system created pursuant to
17 the general laws of this state nor shall attendance at such meetings or
18 other service on behalf of the district constitute service as defined
19 in RCW 41.40.010(9): PROVIDED, That in the case of a port district
20 when commissioners are receiving compensation and contributing to the
21 public employees retirement system, these benefits shall continue in
22 full force and effect notwithstanding the provisions of RCW 53.12.260
23 and 53.12.265.

24 (5) The dollar thresholds established in subsections (1) and (2) of
25 this section must be adjusted for inflation by the office of financial
26 management every five years, beginning July 1, 2008, based upon changes
27 in the consumer price index during that time period. "Consumer price
28 index" means, for any calendar year, that year's annual average
29 consumer price index, for Washington state, for wage earners and
30 clerical workers, all items, compiled by the bureau of labor and
31 statistics, United States department of labor. If the bureau of labor
32 and statistics develops more than one consumer price index for areas
33 within the state, the index covering the greatest number of people,
34 covering areas exclusively within the boundaries of the state, and
35 including all items shall be used for the adjustments for inflation in
36 this section. The office of financial management must calculate the
37 new dollar threshold and transmit it to the office of the code reviser

1 for publication in the Washington State Register at least one month
2 before the new dollar threshold is to take effect.

3 (6) A person holding office as commissioner for two or more special
4 purpose districts shall receive only that per diem compensation
5 authorized for one of his or her commissioner positions as compensation
6 for attending an official meeting or conducting official services or
7 duties while representing more than one of his or her districts.
8 However, such commissioner may receive additional per diem compensation
9 if approved by resolution of all boards of the affected commissions.

10 (7) Each commissioner of a port district in a county with one
11 million or more residents must serve in a full-time employment capacity
12 and must be compensated for the performance of his or her official
13 services and duties at an amount equaling the salary paid to members of
14 the county legislative authority of the county in which the port is
15 located.

16 **Sec. 2.** RCW 53.12.270 and 1975 1st ex.s. c 12 s 1 are each amended
17 to read as follows:

18 (1) The commission may delegate to the managing official of a port
19 district such administrative powers and duties of the commission as it
20 may deem proper for the efficient and proper management of port
21 district operations. Any such delegation shall be authorized by
22 appropriate resolution of the commission, which resolution must also
23 establish guidelines and procedures for the managing official to
24 follow.

25 (2) Nothing in this section allows the managing official or
26 employees of a port district to waive policies related to competition
27 in the procurement of goods and services without receiving prior
28 approval, by resolution, from the commission.

29 (3) Nothing in this section allows the managing official of a port
30 district to supervise or otherwise direct administrative staff and
31 confidential assistants hired under section 3 of this act.

32 **NEW SECTION. Sec. 3.** A new section is added to chapter 53.12 RCW
33 to read as follows:

34 (1) Each commissioner of a port district in a county with one
35 million or more residents must have at least one full-time
36 administrative staff member and one full-time confidential assistant.

1 Administrative staff and confidential assistants hired under this
2 section: (a) Must assist the commissioner in the performance of his or
3 her official services and duties; (b) must be subject to terms of
4 employment established in accordance with RCW 53.08.170; and (c) may
5 not be supervised or otherwise directed by the managing official of the
6 port.

7 (2) Each commission of a port district in a county with one million
8 or more residents must make public findings regarding the number of
9 administrative staff that are necessary to provide financial oversight
10 of the district. If the number of administrative staff recommended in
11 the findings exceeds the number hired under subsection (1) of this
12 section, the commission must hire additional administrative staff
13 until: (a) Each commissioner has an equal number of administrative
14 staff; and (b) the number of hired administrative staff equals or
15 exceeds the number recommended in the findings.

16 NEW SECTION. **Sec. 4.** (1)(a) The legislative task force on port
17 district structure and operation is established, with members as
18 provided in this subsection:

19 (i) One member from each of the two largest caucuses of the house
20 of representatives, appointed by the speaker of the house of
21 representatives;

22 (ii) One member from each of the two largest caucuses of the
23 senate, appointed by the president of the senate;

24 (iii) One member from the Washington public ports association,
25 appointed by the governor;

26 (iv) One member from the freight mobility strategic investment
27 board, appointed by the governor;

28 (v) One member from county government, appointed by the Washington
29 state association of counties; and

30 (vi) One member from city government, appointed by the association
31 of Washington cities.

32 (b) The governor shall select a chair from among its legislative
33 membership.

34 (2) The task force shall consult with individuals from the public
35 and private sectors and other interested parties, as may be
36 appropriate, for technical advice and assistance and may ask those

1 individuals to establish advisory committees or work groups that report
2 to the task force.

3 (3) The task force shall:

4 (a) Examine the constitutional and statutory authorities and duties
5 of port districts;

6 (b) Examine the structure and management of ports in Washington and
7 those of other states and countries that compete with Washington's
8 ports;

9 (c) Examine revenue authorities of ports and consider alternative
10 funding schemes;

11 (d) Consider the benefits and detriments associated with
12 consolidating large port districts, their operations, or both;

13 (e) Consider the benefits and detriments associated with separating
14 air and sea port operations; and

15 (f) Consider whether large port districts should be governed wholly
16 or partially by county legislative authorities.

17 (4) The task force shall use legislative facilities, and staff
18 support shall be provided by the house of representatives office of
19 program research, senate committee services, and the office of
20 financial management.

21 (5) Legislative members of the task force must be reimbursed for
22 travel expenses in accordance with RCW 44.04.120. Nonlegislative
23 members, except those representing an employer or organization, are
24 entitled to be reimbursed for travel expenses in accordance with RCW
25 43.03.050 and 43.03.060.

26 (6) The expenses of the task force must be paid jointly by the
27 house of representatives, the senate, and the office of financial
28 management. Task force expenditures are subject to approval by the
29 senate facilities and operations committee and the house of
30 representatives executive rules committee, or their successor
31 committees.

32 (7) The task force shall report upon its initial actions to the
33 governor and appropriate committees of the house of representatives and
34 the senate by December 1, 2008.

35 (8) The task force shall report its findings and recommendations to
36 the governor and the appropriate committees of the house of
37 representatives and the senate by December 1, 2009.

38 (9) The task force expires May 1, 2010.

1 **Sec. 5.** RCW 53.08.120 and 2000 c 138 s 210 are each amended to
2 read as follows:

3 ~~((All material required by a port district may be procured in the
4 open market or by contract and all work ordered may be done by contract
5 or day labor. All such contracts for work))~~ (1) All contracts related
6 to work meeting the definition of "public work" in RCW 39.04.010(4),
7 the estimated cost of which exceeds two hundred thousand dollars, shall
8 be bid using a competitive sealed bid process. The contract must be
9 let at public bidding upon notice published in a newspaper of general
10 circulation in the district at least thirteen days before the last date
11 upon which bids will be received, calling for sealed bids upon the
12 work, plans and specifications for which shall then be on file in the
13 office of the commission for public inspection. The same notice may
14 call for bids on such work or material based upon plans and
15 specifications submitted by the bidder. The competitive bidding
16 requirements for purchases or public works may be waived pursuant to
17 RCW 39.04.280 if an exemption contained within that section applies to
18 the purchase or public work.

19 ~~((However))~~ (2) For all contracts related to work meeting a
20 definition of "public work" in RCW 39.04.010(4) that are estimated at
21 less than two hundred thousand dollars, a port district may let
22 contracts using the small works roster process under RCW 39.04.155 in
23 lieu of calling for sealed bids. Whenever possible, the managing
24 official shall invite at least one proposal from a minority contractor
25 who shall otherwise qualify under this section.

26 When awarding such a contract for work, when utilizing proposals
27 from the small works roster, the managing official shall give weight to
28 the contractor submitting the lowest and best proposal, and whenever it
29 would not violate the public interest, such contracts shall be
30 distributed equally among contractors, including minority contractors,
31 on the small works roster.

32 NEW SECTION. **Sec. 6.** A new section is added to chapter 53.08 RCW
33 to read as follows:

34 By January 1, 2010, each port shall maintain a database on a public
35 web site of all contracts, including public works and personal
36 services. At a minimum, the database shall identify the contractor,
37 the purpose of the contract, effective dates and periods of

1 performance, the cost of the contract and funding source, any
2 modifications to the contract, and whether the contract was
3 competitively procured or awarded on a sole source basis.

4 NEW SECTION. **Sec. 7.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Commission" means the elected oversight body of an individual
7 port.

8 (2) "Competitive solicitation" means a documented formal process
9 providing an equal and open opportunity to qualified parties and
10 culminating in a selection based on criteria which may include such
11 factors as the consultant's fees or costs, ability, capacity,
12 experience, reputation, responsiveness to time limitations,
13 responsiveness to solicitation requirements, quality of previous
14 performance, and compliance with statutes and rules relating to
15 contracts or services.

16 (3) "Consultant" means an independent individual or firm
17 contracting with a port to perform a service or render an opinion or
18 recommendation according to the consultant's methods and without being
19 subject to the control of the port except as to the result of the work.
20 The port monitors progress under the contract and authorizes payment.

21 (4) "Emergency" means a set of unforeseen circumstances beyond the
22 control of the port that either:

23 (a) Present a real, immediate threat to the proper performance of
24 essential functions; or

25 (b) May result in material loss or damage to property, bodily
26 injury, or loss of life if immediate action is not taken.

27 (5) "Evidence of competition" means documentation demonstrating
28 that the port has solicited responses from multiple firms in selecting
29 a consultant.

30 (6) "Personal service" means professional or technical expertise
31 provided by a consultant to accomplish a specific study, project, task,
32 or other work statement. "Personal service" does not include purchased
33 services as defined under subsection (8) of this section.

34 (7) "Personal service contract" means an agreement, or any
35 amendment thereto, with a consultant for the rendering of personal
36 services to the port.

1 (8) "Purchased services" means services provided by a vendor to
2 accomplish routine, continuing, and necessary functions. "Purchased
3 services" includes, but is not limited to, services for equipment
4 maintenance and repair; operation of a physical plant; security;
5 computer hardware and software maintenance; data entry; key punch
6 services; and computer time-sharing, contract programming, and
7 analysis.

8 (9) "Sole source" means a consultant providing professional or
9 technical expertise of such a unique nature that the consultant is
10 clearly and justifiably the only practicable source to provide the
11 service. The justification shall be based on either the uniqueness of
12 the service or sole availability at the location required.

13 NEW SECTION. **Sec. 8.** Personal services may be procured only to
14 resolve a particular port problem or issue or to expedite a specific
15 project that is temporary in nature. A port may procure personal
16 services only if it documents that:

- 17 (1) The service is critical to port responsibilities or operations,
18 or is mandated or authorized by the commission;
19 (2) Sufficient staffing or expertise is not available within the
20 port to perform the service; and
21 (3) Other qualified public resources are not available to perform
22 the service.

23 NEW SECTION. **Sec. 9.** All personal service contracts shall be
24 entered into pursuant to competitive solicitation, except for:

- 25 (1) Emergency contracts;
26 (2) Sole source contracts;
27 (3) Contract amendments;
28 (4) Contracts between a consultant and a port of less than twenty
29 thousand dollars. However, contracts of five thousand dollars or
30 greater but less than twenty thousand dollars shall have documented
31 evidence of competition. Ports shall not structure contracts to evade
32 these requirements; and
33 (5) Other specific contracts or classes or groups of contracts
34 exempted from the competitive solicitation process by the commission
35 when it has been determined that a competitive solicitation process is
36 not appropriate or cost-effective.

1 NEW SECTION. **Sec. 10.** Emergency contracts shall be filed with the
2 commission and made available for public inspection within three
3 working days following the commencement of work or execution of the
4 contract, whichever occurs first. Documented justification for
5 emergency contracts shall be provided to the commission when the
6 contract is filed.

7 NEW SECTION. **Sec. 11.** (1) Sole source contracts shall be filed
8 with the commission and made available for public inspection at least
9 ten working days prior to the proposed starting date of the contract.
10 Documented justification for sole source contracts shall be provided to
11 the commission when the contract is filed. For sole source contracts
12 of twenty thousand dollars or more, documented justification shall
13 include evidence that the port attempted to identify potential
14 consultants by advertising through statewide or regional newspapers.

15 (2) The commission shall approve sole source contracts of twenty
16 thousand dollars or more before any such contract becomes binding and
17 before any services may be performed under the contract. These
18 requirements shall also apply to sole source contracts of less than
19 twenty thousand dollars if the total amount of such contracts between
20 an agency and the same consultant is twenty thousand dollars or more
21 within a fiscal year. Ports shall ensure that the costs, fees, or
22 rates negotiated in filed sole source contracts of twenty thousand
23 dollars or more are reasonable.

24 NEW SECTION. **Sec. 12.** A port commissioner or employee shall not
25 expend any funds for personal service contracts subject to this chapter
26 unless the port has complied with the competitive procurement and other
27 requirements of this chapter. The port commissioner or employee
28 executing the personal service contracts is responsible for compliance
29 with the requirements of this chapter. Failure to comply with the
30 requirements of this chapter subjects the port commissioner or employee
31 to a civil penalty in the amount of three hundred dollars. A
32 consultant who knowingly violates this chapter in seeking or performing
33 work under a personal services contract is subject to a civil penalty
34 of three hundred dollars or twenty-five percent of the amount of the
35 contract, whichever is greater. The state auditor is responsible for

1 auditing violations of this chapter. The attorney general is
2 responsible for prosecuting violations of this chapter.

3 NEW SECTION. **Sec. 13.** (1) Substantial changes in either the scope
4 of work specified in the contract or in the scope of work specified in
5 the formal solicitation document must generally be awarded as new
6 contracts. Substantial changes executed by contract amendments must be
7 submitted to the commission, and are subject to approval by the
8 commission.

9 (2) An amendment or amendments to personal service contracts, if
10 the value of the amendment or amendments, whether singly or
11 cumulatively, exceeds fifty percent of the value of the original
12 contract must be provided to the commission.

13 (3) The commission shall approve amendments provided to it under
14 this section before the amendments become binding and before services
15 may be performed under the amendments.

16 (4) The amendments must be filed with the commission and made
17 available for public inspection at least ten working days prior to the
18 proposed starting date of services under the amendments.

19 (5) The commission shall approve amendments provided to it under
20 this section only if they meet the criteria for approval of the
21 amendments established by the commission.

22 NEW SECTION. **Sec. 14.** This chapter does not apply to:

23 (1) Contracts specifying a fee of less than five thousand dollars
24 if the total of the contracts from that port with the contractor within
25 a fiscal year does not exceed five thousand dollars;

26 (2) Contracts awarded to companies that furnish a service where the
27 tariff is established by the utilities and transportation commission or
28 other public entity;

29 (3) Intergovernmental agreements awarded to any governmental
30 entity, whether federal, state, or local and any department, division,
31 or subdivision thereof;

32 (4) Contracts awarded for services to be performed for a standard
33 fee, when the standard fee is established by the contracting agency or
34 any other governmental entity and a like contract is available to all
35 qualified applicants;

1 (5) Contracts for services that are necessary to the conduct of
2 collaborative research if prior approval is granted by the funding
3 source;

4 (6) Contracts for architectural and engineering services as defined
5 in RCW 39.80.020, which shall be entered into under chapter 39.80 RCW;
6 and

7 (7) Contracts for the employment of expert witnesses for the
8 purposes of litigation.

9 NEW SECTION. **Sec. 15.** (1) Personal service contracts subject to
10 competitive solicitation shall be (a) filed with the commission and
11 made available for public inspection; and (b) reviewed and approved by
12 the commission when those contracts provide services relating to
13 management consulting, organizational development, marketing,
14 communications, employee training, or employee recruiting.

15 (2) Personal service contracts subject to competitive solicitation
16 that provide services relating to management consulting, organizational
17 development, marketing, communications, employee training, or employee
18 recruiting shall be made available for public inspection at least ten
19 working days before the proposed starting date of the contract. All
20 other contracts shall be effective no earlier than the date they are
21 filed with the commission.

22 NEW SECTION. **Sec. 16.** (1) The port shall maintain a publicly
23 available list of all personal service contracts it entered into during
24 each fiscal year. The list shall identify the contractor, the purpose
25 of the contract, effective dates and periods of performance, the cost
26 of the contract and funding source, any modifications to the contract,
27 and whether the contract was competitively procured or awarded on a
28 sole source basis. The commission shall also ensure that state
29 accounting definitions and procedures are consistent with this chapter
30 and permit the reporting of personal services expenditures by type of
31 service. Designations of type of services shall include, but not be
32 limited to, management and organizational services, legal and expert
33 witness services, financial services, computer and information
34 services, social or technical research, marketing, communications, and
35 employee training or recruiting services.

1 (2) The Washington public ports association shall report annually
2 to the governor and the appropriate committees of the senate and house
3 of representatives on sole source contracts filed under this chapter.
4 The report shall describe: (a) The number and aggregate value of
5 contracts for each category established in this section; (b) the number
6 and aggregate value of contracts of five thousand dollars or greater
7 but less than twenty thousand dollars; (c) the number and aggregate
8 value of contracts of twenty thousand dollars or greater; (d) the
9 justification provided by ports for the use of sole source contracts;
10 and (e) any trends in the use of sole source contracts.

11 NEW SECTION. **Sec. 17.** As requested by the state auditor, the
12 ports shall provide information on contracts filed under this chapter
13 for use in preparation of summary reports on personal services
14 contracts.

15 NEW SECTION. **Sec. 18.** (1) The Washington public ports association
16 shall adopt uniform guidelines for the effective and efficient
17 management of personal service contracts by all ports. The guidelines
18 must, at a minimum, include:

19 (a) Accounting methods, systems, measures, and principles to be
20 used by agencies and contractors;

21 (b) Precontract procedures for selecting potential contractors
22 based on their qualifications and ability to perform;

23 (c) Incorporation of performance measures and measurable benchmarks
24 in contracts, and the use of performance audits;

25 (d) Uniform contract terms to ensure contract performance and
26 compliance with state and federal standards;

27 (e) Proper payment and reimbursement methods to ensure that the
28 state receives full value for taxpayer moneys, including cost
29 settlements and cost allowance;

30 (f) Postcontract procedures, including methods for recovering
31 improperly spent or overspent moneys for disallowance and adjustment;

32 (g) Adequate contract remedies and sanctions to ensure compliance;

33 (h) Monitoring, fund tracking, risk assessment, and auditing
34 procedures and requirements;

35 (i) Financial reporting, record retention, and record access
36 procedures and requirements;

1 (j) Procedures and criteria for terminating contracts for cause or
2 otherwise; and

3 (k) Any other subject related to effective and efficient contract
4 management.

5 (2) The Washington public ports association shall submit the
6 guidelines required by subsection (1) of this section to the governor
7 and the appropriate standing committees of the legislature no later
8 than December 1, 2008.

9 (3) The Washington public ports association shall publish a
10 guidebook for use by ports containing the guidelines required by
11 subsection (1) of this section.

12 NEW SECTION. **Sec. 19.** (1) A port entering into or renewing
13 personal service contracts shall follow the guidelines required by
14 section 18 of this act.

15 (2) A port that has entered into or renewed personal service
16 contracts during a calendar year shall, on or before January 1st of the
17 following calendar year, provide the commission with a report detailing
18 the procedures the port employed in entering into, renewing, and
19 managing the contracts.

20 (3) This section applies to ports entering into or renewing
21 contracts after January 1, 2010.

22 NEW SECTION. **Sec. 20.** (1) The Washington public ports association
23 shall provide a training course for port personnel responsible for
24 executing and managing personal service contracts. The course must
25 contain training on effective and efficient contract management under
26 the guidelines established under section 18 of this act. Ports shall
27 require port employees responsible for executing or managing personal
28 service contracts to complete the training course to the satisfaction
29 of the commission. Beginning January 1, 2010, no port employee may
30 execute or manage personal service contracts unless the employee has
31 completed the training course. Any request for exception to this
32 requirement shall be submitted to the commission in writing and shall
33 be approved by the commission prior to the employee executing or
34 managing the contract.

35 (2)(a) The office of the state auditor shall conduct risk-based
36 audits of the contracting practices associated with individual personal

1 service from multiple port districts to ensure compliance with the
2 guidelines established in sections 14 and 15 of this act. The office
3 of the state auditor shall conduct the number of audits deemed
4 appropriate by the state auditor based on funding provided.

5 (b) The office of the state auditor shall forward the results of
6 the audits conducted under this section to the governor, the
7 appropriate standing committees of the legislature, and the joint
8 legislative audit and review committee.

9 NEW SECTION. **Sec. 21.** The state auditor and the attorney general
10 shall annually by November 30th of each year provide a collaborative
11 report of contract audit and investigative findings, enforcement
12 actions, and the status of agency resolution to the governor and the
13 policy and fiscal committees of the legislature.

14 **Sec. 22.** RCW 39.04.010 and 2007 c 133 s 1 are each amended to read
15 as follows:

16 The definitions in this section apply throughout this chapter
17 unless the context clearly requires otherwise.

18 (1) "Award" means the formal decision by the state or municipality
19 notifying a responsible bidder with the lowest responsive bid of the
20 (~~state~~) state's or municipality's acceptance of the bid and intent to
21 enter into a contract with the bidder.

22 (2) "Contract" means a contract in writing for the execution of
23 public work for a fixed or determinable amount duly awarded after
24 advertisement and competitive bid, or a contract awarded under the
25 small works roster process in RCW 39.04.155.

26 (3) "Municipality" means every city, county, town, port district,
27 district, or other public agency authorized by law to require the
28 execution of public work, except drainage districts, diking districts,
29 diking and drainage improvement districts, drainage improvement
30 districts, diking improvement districts, consolidated diking and
31 drainage improvement districts, consolidated drainage improvement
32 districts, consolidated diking improvement districts, irrigation
33 districts, or other districts authorized by law for the reclamation or
34 development of waste or undeveloped lands.

35 (4) "Public work" means all work, construction, alteration, repair,
36 or improvement other than ordinary maintenance, executed at the cost of

1 the state or of any municipality, or which is by law a lien or charge
2 on any property therein. All public works, including maintenance when
3 performed by contract shall comply with chapter 39.12 RCW. "Public
4 work" does not include work, construction, alteration, repair, or
5 improvement performed under contracts entered into under RCW
6 36.102.060(4) or under development agreements entered into under RCW
7 36.102.060(7) or leases entered into under RCW 36.102.060(8).

8 (5) "Responsible bidder" means a contractor who meets the criteria
9 in RCW 39.04.350.

10 (6) "State" means the state of Washington and all departments,
11 supervisors, commissioners, and agencies of the state.

12 **Sec. 23.** RCW 39.04.155 and 2007 c 218 s 87, 2007 c 210 s 1, and
13 2007 c 133 s 4 are each reenacted and amended to read as follows:

14 (1) This section provides uniform small works roster provisions to
15 award contracts for construction, building, renovation, remodeling,
16 alteration, repair, or improvement of real property that may be used by
17 state agencies and by any local government that is expressly authorized
18 to use these provisions. These provisions may be used in lieu of other
19 procedures to award contracts for such work with an estimated cost of
20 two hundred thousand dollars or less. The small works roster process
21 includes the limited public works process authorized under subsection
22 (3) of this section and any local government authorized to award
23 contracts using the small works roster process under this section may
24 award contracts using the limited public works process under subsection
25 (3) of this section.

26 (2)(a) A state agency or authorized local government may create a
27 single general small works roster, or may create a small works roster
28 for different specialties or categories of anticipated work. Where
29 applicable, small works rosters may make distinctions between
30 contractors based upon different geographic areas served by the
31 contractor. The small works roster or rosters shall consist of all
32 responsible contractors who have requested to be on the list, and where
33 required by law are properly licensed or registered to perform such
34 work in this state. A state agency or local government establishing a
35 small works roster or rosters may require eligible contractors desiring
36 to be placed on a roster or rosters to keep current records of any
37 applicable licenses, certifications, registrations, bonding, insurance,

1 or other appropriate matters on file with the state agency or local
2 government as a condition of being placed on a roster or rosters. At
3 least once a year, the state agency or local government shall publish
4 in a newspaper of general circulation within the jurisdiction a notice
5 of the existence of the roster or rosters and solicit the names of
6 contractors for such roster or rosters. In addition, responsible
7 contractors shall be added to an appropriate roster or rosters at any
8 time they submit a written request and necessary records. Master
9 contracts may be required to be signed that become effective when a
10 specific award is made using a small works roster.

11 (b) A state agency establishing a small works roster or rosters
12 shall adopt rules implementing this subsection. A local government
13 establishing a small works roster or rosters shall adopt an ordinance
14 or resolution implementing this subsection. Procedures included in
15 rules adopted by the department of general administration in
16 implementing this subsection must be included in any rules providing
17 for a small works roster or rosters that is adopted by another state
18 agency, if the authority for that state agency to engage in these
19 activities has been delegated to it by the department of general
20 administration under chapter 43.19 RCW. An interlocal contract or
21 agreement between two or more state agencies or local governments
22 establishing a small works roster or rosters to be used by the parties
23 to the agreement or contract must clearly identify the lead entity that
24 is responsible for implementing the provisions of this subsection.

25 (c) Procedures shall be established for securing telephone,
26 written, or electronic quotations from contractors on the appropriate
27 small works roster to assure that a competitive price is established
28 and to award contracts to the lowest responsible bidder, as defined in
29 RCW 39.04.010. Invitations for quotations shall include an estimate of
30 the scope and nature of the work to be performed as well as materials
31 and equipment to be furnished. However, detailed plans and
32 specifications need not be included in the invitation. This subsection
33 does not eliminate other requirements for architectural or engineering
34 approvals as to quality and compliance with building codes. Quotations
35 may be invited from all appropriate contractors on the appropriate
36 small works roster. As an alternative, quotations may be invited from
37 at least five contractors on the appropriate small works roster who
38 have indicated the capability of performing the kind of work being

1 contracted, in a manner that will equitably distribute the opportunity
2 among the contractors on the appropriate roster. However, if the
3 estimated cost of the work is from one hundred thousand dollars to two
4 hundred thousand dollars, a state agency or local government(~~(, other~~
5 ~~than a port district,)~~) that chooses to solicit bids from less than all
6 the appropriate contractors on the appropriate small works roster must
7 also notify the remaining contractors on the appropriate small works
8 roster that quotations on the work are being sought. The government
9 has the sole option of determining whether this notice to the remaining
10 contractors is made by: (i) Publishing notice in a legal newspaper in
11 general circulation in the area where the work is to be done; (ii)
12 mailing a notice to these contractors; or (iii) sending a notice to
13 these contractors by facsimile or other electronic means. For purposes
14 of this subsection (2)(c), "equitably distribute" means that a state
15 agency or local government soliciting bids may not favor certain
16 contractors on the appropriate small works roster over other
17 contractors on the appropriate small works roster who perform similar
18 services.

19 (d) A contract awarded from a small works roster under this section
20 need not be advertised.

21 (e) Immediately after an award is made, the bid quotations obtained
22 shall be recorded, open to public inspection, and available by
23 telephone inquiry.

24 (3) In lieu of awarding contracts under subsection (2) of this
25 section, a state agency or authorized local government may award a
26 contract for work, construction, alteration, repair, or improvement
27 projects estimated to cost less than thirty-five thousand dollars using
28 the limited public works process provided under this subsection.
29 Public works projects awarded under this subsection are exempt from the
30 other requirements of the small works roster process provided under
31 subsection (2) of this section and are exempt from the requirement that
32 contracts be awarded after advertisement as provided under RCW
33 39.04.010.

34 For limited public works projects, a state agency or authorized
35 local government shall solicit electronic or written quotations from a
36 minimum of three contractors from the appropriate small works roster
37 and shall award the contract to the lowest responsible bidder as
38 defined under RCW 39.04.010. After an award is made, the quotations

1 shall be open to public inspection and available by electronic request.
2 A state agency or authorized local government shall attempt to
3 distribute opportunities for limited public works projects equitably
4 among contractors willing to perform in the geographic area of the
5 work. A state agency or authorized local government shall maintain a
6 list of the contractors contacted and the contracts awarded during the
7 previous twenty-four months under the limited public works process,
8 including the name of the contractor, the contractor's registration
9 number, the amount of the contract, a brief description of the type of
10 work performed, and the date the contract was awarded. For limited
11 public works projects, a state agency or authorized local government
12 may waive the payment and performance bond requirements of chapter
13 39.08 RCW and the retainage requirements of chapter 60.28 RCW, thereby
14 assuming the liability for the contractor's nonpayment of laborers,
15 mechanics, subcontractors, materialpersons, suppliers, and taxes
16 imposed under Title 82 RCW that may be due from the contractor for the
17 limited public works project, however the state agency or authorized
18 local government shall have the right of recovery against the
19 contractor for any payments made on the contractor's behalf.

20 (4) The breaking of any project into units or accomplishing any
21 projects by phases is prohibited if it is done for the purpose of
22 avoiding the maximum dollar amount of a contract that may be let using
23 the small works roster process or limited public works process.

24 (5)(a) A state agency or authorized local government may use the
25 limited public works process of subsection (3) of this section to
26 solicit and award small works roster contracts to small businesses that
27 are registered contractors with gross revenues under one million
28 dollars annually as reported on their federal tax return.

29 (b) A state agency or authorized local government may adopt
30 additional procedures to encourage small businesses that are registered
31 contractors with gross revenues under two hundred fifty thousand
32 dollars annually as reported on their federal tax returns to submit
33 quotations or bids on small works roster contracts.

34 (6) As used in this section, "state agency" means the department of
35 general administration, the state parks and recreation commission, the
36 department of natural resources, the department of fish and wildlife,
37 the department of transportation, any institution of higher education
38 as defined under RCW 28B.10.016, and any other state agency delegated

1 authority by the department of general administration to engage in
2 construction, building, renovation, remodeling, alteration,
3 improvement, or repair activities.

4 **Sec. 24.** RCW 53.36.030 and 1996 c 66 s 1 are each amended to read
5 as follows:

6 (1)(a) Except as provided in (b) of this subsection, a port
7 district may at any time contract indebtedness or borrow money for
8 district purposes and may issue general obligation bonds therefor not
9 exceeding an amount, together with any existing indebtedness of the
10 district not authorized by the voters, of one-fourth of one percent of
11 the value of the taxable property in the district.

12 (b) Port districts having less than eight hundred million dollars
13 in value of taxable property during 1991 may at any time contract
14 indebtedness or borrow money for port district purposes and may issue
15 general obligation bonds therefor not exceeding an amount, combined
16 with existing indebtedness of the district not authorized by the
17 voters, of three-eighths of one percent of the value of the taxable
18 property in the district. Prior to contracting for any indebtedness
19 authorized by this subsection (1)(b), the port district must have a
20 comprehensive plan for harbor improvements or industrial development
21 and a long-term financial plan approved by the department of community,
22 trade, and economic development. The department of community, trade,
23 and economic development is immune from any liability for its part in
24 reviewing or approving port district's improvement or development
25 plans, or financial plans. Any indebtedness authorized by this
26 subsection (1)(b) may be used only to acquire or construct a facility,
27 and, prior to contracting for such indebtedness, the port district must
28 have a lease contract for a minimum of five years for the facility to
29 be acquired or constructed by the debt.

30 (2) With the assent of three-fifths of the voters voting thereon at
31 a general or special port election called for that purpose, a port
32 district may contract indebtedness or borrow money for district
33 purposes and may issue general obligation bonds therefor provided the
34 total indebtedness of the district at any such time shall not exceed
35 three-fourths of one percent of the value of the taxable property in
36 the district.

1 (3) In addition to the indebtedness authorized under subsections
2 (1) and (2) of this section, port districts having less than two
3 hundred million dollars in value of taxable property and operating a
4 municipal airport may at any time contract indebtedness or borrow money
5 for airport capital improvement purposes and may issue general
6 obligation bonds therefor not exceeding an additional one-eighth of one
7 percent of the value of the taxable property in the district without
8 authorization by the voters; and, with the assent of three-fifths of
9 the voters voting thereon at a general or special port election called
10 for that purpose, may contract indebtedness or borrow money for airport
11 capital improvement purposes and may issue general obligation bonds
12 therefor for an additional three-eighths of one percent provided the
13 total indebtedness of the district for all port purposes at any such
14 time shall not exceed one and one-fourth percent of the value of the
15 taxable property in the district.

16 (4) Any port district may issue general district bonds evidencing
17 any indebtedness, payable at any time not exceeding fifty years from
18 the date of the bonds. Any contract for indebtedness or borrowed money
19 authorized by RCW 53.36.030(1)(b) shall not exceed twenty-five years.
20 The bonds shall be issued and sold in accordance with chapter 39.46
21 RCW.

22 (5) Elections required under this section shall be held as provided
23 in RCW 39.36.050.

24 (6) For the purpose of this section, "indebtedness of the district"
25 shall not include any debt of a county-wide district with a population
26 less than twenty-five hundred people when the debt is secured by a
27 mortgage on property leased to the federal government; and the term
28 "value of the taxable property" shall have the meaning set forth in RCW
29 39.36.015.

30 (7) This section does not apply to a loan made under a loan
31 agreement under chapter 39.69 RCW, and a computation of indebtedness
32 under this chapter must exclude the amount of a loan under such a loan
33 agreement.

34 (8) A port district may not use property tax revenue derived from
35 banked levy capacity under RCW 84.55.092 to pay, secure, or guarantee
36 the payment of principal and interest on general obligation bonds
37 issued after the effective date of this section without the approval of

1 the governor. This subsection only applies to a port district in a
2 county with a population of one million or more.

3 **Sec. 25.** RCW 84.55.092 and 1998 c 16 s 3 are each amended to read
4 as follows:

5 (1) Except as provided in subsection (2) of this section, the
6 regular property tax levy for each taxing district other than the state
7 may be set at the amount which would be allowed otherwise under this
8 chapter if the regular property tax levy for the district for taxes due
9 in prior years beginning with 1986 had been set at the full amount
10 allowed under this chapter including any levy authorized under RCW
11 52.16.160 that would have been imposed but for the limitation in RCW
12 52.18.065, applicable upon imposition of the benefit charge under
13 chapter 52.18 RCW.

14 (2) A port district may not use levy proceeds derived from banked
15 levy capacity under this section to pay, secure, or guarantee the
16 payment of principal and interest on general obligation bonds issued
17 after the effective date of this section unless the increased levy
18 amount under this section is approved by the governor. This subsection
19 only applies to a port district in a county with a population of one
20 million or more.

21 (3) The purpose of subsection (1) of this section is to remove the
22 incentive for a taxing district to maintain its tax levy at the maximum
23 level permitted under this chapter, and to protect the future levy
24 capacity of a taxing district that reduces its tax levy below the level
25 that it otherwise could impose under this chapter, by removing the
26 adverse consequences to future levy capacities resulting from such levy
27 reductions.

28 NEW SECTION. **Sec. 26.** Sections 6 through 21 of this act
29 constitute a new chapter in Title 53 RCW.

--- END ---